

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DISTRICT**

SALA NAAMBWE and YVETTE NIMENYA  Plaintiffs,  vs.  SMITHFIELD FOODS, INC.  Defendant.	Case No.: 4:17-cv-04123-LLP  <p style="text-align: center;"><b>DEFENDANT’S MOTION FOR SUMMARY JUDGMENT</b></p>
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Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1, Defendant Smithfield Packaged Meats Corp. (formerly John Morrell & Co., and incorrectly named in this action as Smithfield Foods, Inc.) (“Smithfield”) moves for summary judgment against Plaintiffs Sala Naambwe (“Naambwe”) and Yvette Nimenya (“Nimenya”) (collectively, “Plaintiffs”). This motion is made upon the grounds that there is no genuine dispute of any material fact relating to Plaintiffs’ claims for race discrimination and retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-2 *et. seq.*, and the undisputed record evidence shows that Plaintiffs cannot establish these statutory violations as a matter of law.

The genesis of this case was a single, regrettable incident in February 2016, in which one of Plaintiffs’ co-workers made reprehensible racist statements. Both Plaintiffs agree this was a one-time event. Further, no competent record evidence supports Plaintiffs’ assumption of retaliatory intent. The record shows that Plaintiffs’ perceptions and assumptions (particularly those of Naambwe) are both unreliable and erroneous. Both Plaintiffs remain employed by Smithfield, and neither has suffered a materially adverse action, such as a reduction in compensation or a demotion.

This motion is based upon the accompanying memorandum of points and authorities, which is supported by Exhibits A through I to the Declaration of Andrea R. Calem, and the declaration testimony of Scott Reed, Gary Loger, Carrie Moate and Monica Derby.

Wherefore, Smithfield respectfully requests that the Court enter judgment in its favor, dismiss Plaintiffs' claims in their entirety, and issue an order that Smithfield may recover its costs and fees.

Date: July 9, 2018

Respectfully submitted,

**SMITHFIELD PACKAGED MEATS CORP.**

By: /s/ Andrea R. Calem

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was served via the Court's electronic filing system on July 9, 2018 on the following counsel for Plaintiffs:

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